

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>SERTA SIMMONS BEDDING, LLC,</b>	§	<b>Case No. 23-90020 (DRJ)</b>
<b><i>et al.</i>,</b>	§	
	§	
<b>Debtors.<sup>1</sup></b>	§	<b>(Jointly Administered)</b>
	§	
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	§	
<b>SERTA SIMMONS BEDDING, LLC,</b>	§	
<b><i>et al.</i>,</b>	§	<b>Adversary Proc. No. 23-09001</b>
	§	
<b>Plaintiffs and Counterclaim Defendant,</b>	§	
	§	
<b>v.</b>	§	
	§	
<b>AG CENTRE STREET PARTNERSHIP</b>	§	
<b>L.P., <i>et al.</i>,</b>	§	
	§	
<b>Defendants and Counterclaim Plaintiffs</b>	§	
	§	
<b>v.</b>	§	
	§	
<b>AGF FLOATING RATE INCOME FUND, <i>et al.</i>,</b>	§	
	§	
<b>Additional Counterclaim Defendants.</b>	§	
	§	
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**ORDER ON MOTION FOR CERTIFICATION  
OF DIRECT APPEAL TO THE FIFTH CIRCUIT**

Upon consideration of the Emergency Motion to Certify Pending Appeals for Direct Review (the “**Motion**”), filed by Serta Simmons Bedding, LLC, the Reorganized Debtors in the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Dawn Intermediate, LLC (6123); Serta Simmons Bedding, LLC (1874); Serta International Holdco, LLC (6101); National Bedding Company L.L.C. (0695); Serta Simmons Bedding Manufacturing Company (5743); The Simmons Manufacturing Co., LLC (0960); Dreamwell, Ltd. (2419); Serta Simmons Bedding Hospitality, LLC (2016); Serta Simmons Bedding Logistics, LLC (6691); Simmons Bedding Company, LLC (2552); Tuft & Needle, LLC (6215); Tomorrow Sleep LLC (0678); Serta Simmons Bedding Retail, LLC (9245); and World of Sleep Outlets, LLC (0957). The Debtors’ corporate headquarters and service address for these chapter 11 cases is 2451 Industry Avenue, Doraville, Georgia 30360.

above-captioned chapter 11 cases, and Invesco Senior Secured Management, Inc., Credit Suisse Asset Management, LLC, Eaton Vance Management, Boston Management and Research, Barings, LLC and the Represented Additional Counterclaim Defendants<sup>2</sup> (together, the “**PTL Lenders**”), the Court hereby finds as follows:

**WHEREAS**, there is currently pending before the U.S. Court of Appeals for the Fifth Circuit an appeal by AG Centre Street Partnership L.P., AG Credit Solutions Non ECI Master Fund, L.P., AG Super Fund Master, L.P., AG SF Master (L), L.P., Silver Oak Capital, L.L.C., Ascribe III Investments, LLC, Columbia Cent CLO 21 Limited, Columbia Cent CLO 27 Limited, Columbia Floating Rate Fund, a series of Columbia Funds Series Trust II, Columbia Strategic Income Fund, a series of Columbia Funds Series Trust I, Contrarian Capital Fund I, L.P., Contrarian Distressed Debt Fund, L.P., Contrarian Centre Street Partnership, L.P., Gamut Capital SSB, LLC, North Star Debt Holdings, L.P., Shackleton 2013-III CLO, Ltd., Shackleton 2013-IV-R CLO, Ltd., Shackleton 2014-V-R CLO, Ltd., Shackleton 2015-VII-R CLO, Ltd., Shackleton 2017- XI CLO, Ltd., Z Capital Credit Partners CLO 2018-1 Ltd., and Z Capital Credit Partners CLO 2019-1 Ltd. (collectively, the “Non-PTL Lenders”) and LCM XXII Ltd., LCM XXIII Ltd., LCM XXIV Ltd., LCM XXV Ltd., LCM 26 Ltd., LCM 27 Ltd., and LCM 28 Ltd. (collectively, “LCM”) of the Order on Summary Judgment (ECF No. 141), which appeal is before the Fifth Circuit as No. 23-20181 (the “Summary Judgment Appeal”).

**WHEREAS**, on June 6, 2023, following a joint trial on plan confirmation and Adversary Proceeding No. 23-9001, this Court entered its Memorandum Opinion regarding (i) Confirmation of the Debtors’ Second Amended Joint Chapter 11 Plan, as supplemented and amended; and (ii)

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<sup>2</sup> As defined in Dkt. No. 217, Case No. 23-09001.

adjudication of the claims, counterclaims, and cross-claims in Adversary Proceeding No. 23-9001 (ECF No. 1045).

**WHEREAS**, on June 14, 2023, the Court entered its Final Judgment in Adversary Proceeding No. 23-9001 (ECF No. 1070) (the “Final Judgment”).

**WHEREAS**, on June 14, 2023, the Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Second Amended Joint Chapter 11 Plan of Serta Simmons Bedding, LLC and Its Affiliated Debtors (ECF No. 1071) (the “Confirmation Order”).

**WHEREAS**, the Non-PTL Lenders, the LCM Lenders, the Debtors, and the PTL Lenders have filed a stipulation and proposed order (ECF No. 1167) certifying the appeal of the Final Judgment, to the extent each of the parties is appealing such judgment, to the Fifth Circuit on direct appeal pursuant to 28 U.S.C. § 158(d), where they will seek to have that appeal consolidated with the Summary Judgment Appeal currently pending before the Fifth Circuit.

**WHEREAS**, Citadel, the Debtors, and the PTL Lenders agree that the Confirmation Order should also be certified to the Fifth Circuit on direct appeal pursuant to 28 U.S.C. § 158(d), where they also will seek to have that appeal consolidated with the Summary Judgment Appeal currently pending before the Fifth Circuit.

**WHEREAS**, the Non-PTL Lenders and the LCM Lenders have objected to the Confirmation Order being certified to the Fifth Circuit on direct appeal pursuant to 28 U.S.C. § 158(d).

**WHEREAS**, the Debtors and PTL Lenders filed the Motion asking this Court to certify the Confirmation Order for direct appeal pursuant to Federal Rule of Bankruptcy Procedure 8006 and 28 U.S.C. 158(d).

**IT IS HEREBY ORDERED THAT**

1. The Court grants the Motion and hereby **CERTIFIES** the Confirmation Order to the U.S. Court of Appeals for the Fifth Circuit, pursuant to 28 U.S.C. § 158(d)(2)(A), because an immediate appeal from the judgment, order, or decree would materially advance the progress of this case or proceeding.

2. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

SO ORDERED.

Dated: July \_\_, 2023  
Houston, Texas

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**DAVID R. JONES**  
**UNITED STATES BANKRUPTCY JUDGE**